

REMARKS

It appears that the restriction requirement is stating that the inventions of Group I (claims 1-8 and 24-29) and Group II (claims 9-23) are distinct from each other because they are related as a process of making and product made and that the products of Group I are distinct from the processes of Group II because the products of the Group I claims can be made by a process materially different than that of the processes of the Group II claims.

For example, it was alleged that the product as claimed can be made by another and materially different process such as ion milling etching instead of oxygen plasma etching for patterning the electrodes. However, it is respectfully pointed out that this suggested process is not a materially different process from applicants' claimed processes because the suggested process is included within the scope of the processes recited in applicants' claims 9 and 16. Claims 9 and 16 do not include any limitation that requires patterning the electrodes using oxygen plasma etching. Applicants respectfully point out that it is well understood that the scope of the claims is not limited to the embodiments discussed in the detailed description and not limited to that which is shown in the figures.

Applicants respectfully submit that the process suggested in the Office action is included within the scope of claims 9 and 16, and consequently, the process suggested in the Office action is not a "materially different" process for making the product as claimed. Therefore, the guidelines set out in MPEP § 806.05(f) have not been complied with for a proper restriction requirement.

Conclusion

A provisional election of the claims of Group I is herein made, however, the restriction is traversed, and reconsideration and withdrawal of the requirement for restriction is respectfully requested. Furthermore, applicants believe the claims are in condition for allowance and that the Examiner allow all pending claims.

Should it be determined that an additional fee is due under 37 CFR §§1.16 or 1.17, or any excess fee has been received, please charge that fee or credit the amount of overcharge to deposit account #02-2666.

If the Examiner believes that there are any informalities which can be corrected by an Examiner's amendment, a telephone call to the undersigned at (480) 552-0624 is respectfully solicited.

Respectfully submitted,

Jian Li et al.



Anthony M. Martinez

Patent Attorney

Reg. No. 44,223

Dated: September 4, 2002

c/o Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Blvd., Seventh Floor
Los Angeles, CA 90025-1026
(503) 264-0967